

Shimshon SAGIV
Serial No. 10/577,945
July 23, 2009

AMENDMENTS TO THE DRAWINGS:

Applicant submits concurrently herewith one sheet of annotated drawings illustrating Figs. 1A, 1B and 1C showing proposed changes in red ink, accompanied by one sheet of replacement drawings incorporating the amendments.

Attachments: Replacement Sheet: 1
Annotated Sheet Showing Changes: 1

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REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

The Examiner's attention is drawn to the fact that Brazil, U.S. Patent No. 6,537,033, which is relied upon by the Examiner in the text of the office action, is not included on Form PTO-892, Notice of References Cited. Accordingly, it is not yet properly of record so as to be printed on the face of an issued patent in connection herewith. Issuance of a corrected supplemental Notice of References Cited is respectfully requested.

The Examiner's withdrawal of claims 5-7, 13-15, 17-29 and 34-36 is noted. However, it is also noted that since the prior restriction requirement was of the "species" type, these claims should be rejoined and allowed with all other claims once generic parent claims are allowed.

The "prior art" legend has been added to Figs. 1A-1C as requested.

The abstract of the disclosure has been reviewed and amended in accordance with the Examiner's request.

The specification has also been reviewed for the presence of possible minor errors, etc.

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Accordingly, all outstanding formality-based issues are now believed to have been resolved in the applicant's favor.

The rejection of claims 1-3, 8 and 30-33 under 35 U.S.C. §102 as allegedly anticipated by Happel '058 is respectfully traversed.

The Examiner alleges that Happel's "massage cushions" 19, 20 and 21 constitute "constricting elements being selectably operable in constricting and non-constricting modes." However, the Happel teaching shows that these three cushions are simply serially connected via "restrictor openings 22 and 23" so that when one common connection duct 5 is supplied with pressurization, the massage cushions 19, 20 and 21 are sequentially pressurized via these sequential restrictor openings 22 and 23. Accordingly, the massage cushions 19-21 do not constitute constricting elements that are selectably operable. That is, no one of the massage cushions can be operated independently of the others. Furthermore, the Happel teaching makes it clear that this massaging operation is in the context of a traditional milking machine using a sub-atmospheric suction pulse to draw milk from the teat. As Happel describes the arrangement at 1:19-22, albeit the massage pulse also extracts some further milk from the teat, the amount is negligible in comparison with that extracted during the suction pulse.

Independent claims 1, 9 and 30 have been amended above to explicitly recite "said means being in communication with each of said constricting elements separately so that each constricting element may be switched from its constricting mode to its non-constricting mode and vice versa independently of the other constricting elements." This amendment is supported by, *inter alia*, Figs. 2A-5 and discussion thereof, for example, at page 8, line 23; page 9, lines 27-29; and page 10, lines 27-29 of the specification.

Such independent selectably operable features are not found in Happel as there is a single inlet (5) to Happel's cushions (see, e.g., Happel's Figs. 1 and 3). All the cushions(s) are filled and emptied through a single aperture. Moreover, the cushions are, in effect, one large cushion as they are connected via restrictor openings 22 and 23. See Happel at 6:15-16. As shown in Happel's Fig. 3, and as is evident from the discussion thereof in Happel's specification, no one of Happel's cushions can be inflated (and deflated) independently.

Additionally, independent claim 9 requires a vent to "maintain atmospheric pressure on the teat." This limitation is clearly absent in Happel because suction is applied through inlet 5 which is adjacent to the animals' teats, thereby purposefully subjecting the teat to sub-atmospheric pressure. As noted by Happel, for example, in his abstract, "...the teats are thus periodically isolated from the vacuum..." indicating that they are, at times, under suction from the vacuum. Similarly, suction is required by

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Happel according to 6:53-54, which states that the "milking cup [2] is periodically subjected to pulses of pressure and suction." As noted above, Happel teaches a traditional sub-atmospheric vacuum pulse milking machine (e.g., see 1:12-22) for extracting most of the milk. Some of the advantages of applicant's novel approach are listed at the bottom of page 16 of applicant's specification.

Given such fundamental deficiencies of Happel with respect to the independent claims as already noted, it is unnecessary at this time to detail additional deficiencies of Happel with respect to other aspects of the rejected claims. Suffice it to note that, as a matter of law, it is impossible for any reference to anticipate a claim unless it teaches each and every feature of that claim.

The rejection of claims 1-4, 8-12 and 16 under 35 U.S.C. §103 as allegedly being made "obvious" based on Happel in view of Brazil '033 is also respectfully traversed.

As noted above, the Brazil reference is not yet made officially of record in the Notice of References Cited, Form PTO-892, appended to the office action of April 28, 2009.

Fundamental deficiencies of Happel have already been noted above. Brazil does not supply those deficiencies.

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Indeed, here the Examiner admits that Happel does not disclose, *inter alia*, the applicant's claimed controller – which appears to be inconsistent with the earlier assertion that such feature was “anticipated” by Happel.

In any event, Brazil further teaches away from applicant's claimed invention because, *inter alia*, Brazil also teaches merely a traditional vacuum pulse type of milking machine. Accordingly, the vacuum “controller” taught by Brazil has nothing whatsoever to do with a predetermined timing and sequence for periodically switching constricting elements between constricting and non-constricting modes so as to compress the teat of an animal when drawing milk therefrom, etc.

Accordingly, even if the entirety of the teachings of both Happel and Brazil are somehow “combined” *arguendo*, one would still not find any teaching or suggestion of the applicant's claimed invention.

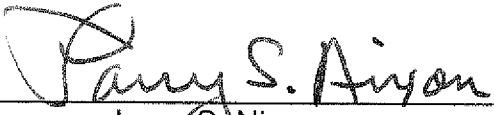
Given such fundamental deficiencies of both Happel and Brazil as already discussed with respect to the independent claims, it is not necessary to detail additional deficiencies of this allegedly “obvious” combination of references with respect to other aspects of the rejected claims. Suffice it to note that, as a matter of law, even a *prima facie* case of “obviousness” must be supported by cited prior art that teaches or suggests each and every feature of each rejected claim.

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Accordingly, this entire application is now believed to be in allowable condition,
and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

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